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Canadian Environmental
Assessment Act

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The Northern Affairs Program,
DIAND, Yukon Region and the

Canadian Environmental Assessment Act

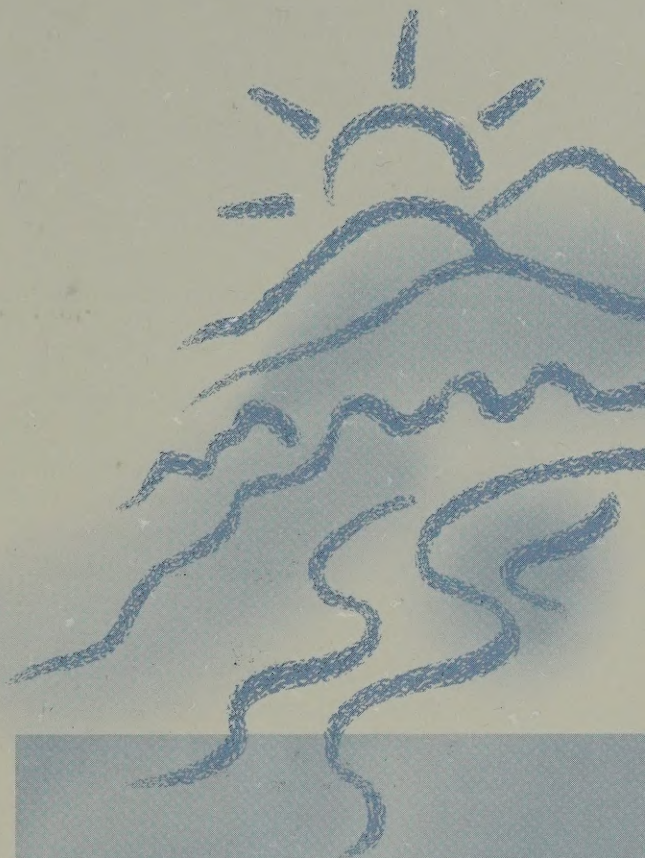


Indian and Northern
Affairs Canada

Canada



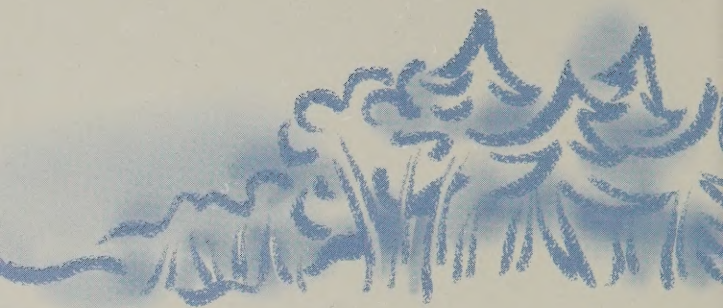
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The Northern Affairs Program of the Department of Indian Affairs and Northern Development (DIAND) is responsible for managing the minerals, water, forests and most of the land in the Yukon Territory. Environmental assessment is a major element of this resource management responsibility.

This guide describes the federal environmental assessment process and how the Northern Affairs Program carries out its responsibilities under the Canadian Environmental Assessment Act (CEAA).

Project proponents are encouraged to contact DIAND as early as possible in the project planning process. Early contact enables proponents to consider information requirements as part of their overall project planning.



What is the *Canadian Environmental Assessment Act* (CEAA)?

On January 19, 1995, the Canadian Environmental Assessment Act (CEAA) was proclaimed and replaced the Environmental Assessment and Review Process (EARP) Guidelines Order. When CEAA was enacted, the federal government's authority to conduct environmental assessment was clarified and strengthened. As an act of Parliament, CEAA is a federal statute with accompanying regulations. The DIAND environmental assessment process is essentially the same as it was under the EARP Guidelines Order. Some of the differences are outlined in the following paragraphs.

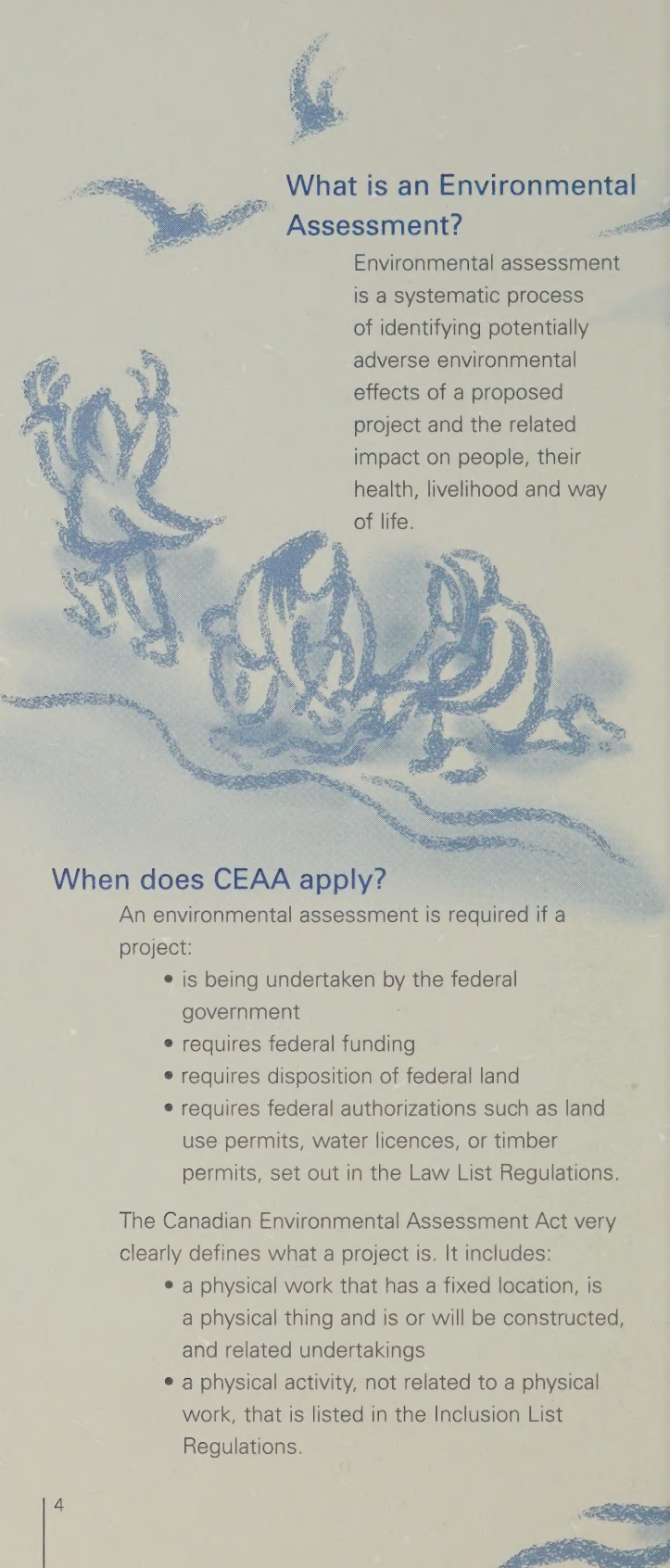
CEAA is a federal law requiring the Government of Canada to conduct environmental assessment on specified projects. CEAA promotes sustainable development by encouraging the integration of environmental factors into project planning and decision-making.

One of the main goals of CEAA is to identify environmental concerns and mitigation measures early in the project planning stage, before irrevocable decisions are made. Mitigation measures are designed to avoid and minimize the adverse environmental effects of projects.

Project designs should include technical, environmental, socio-economic and heritage considerations. Early examination of these considerations results in more efficient and cost-effective project planning.

The following outlines some aspects of the Canadian Environmental Assessment Act (CEAA) that differ from the EARP Guidelines Order.

- 1 Four CEAA regulations provide more certainty regarding the projects that have to be assessed. They include the following: the Law List, Inclusion List, Comprehensive Study List and the Exclusion List Regulations.
- 2 A broader definition of environmental and related socioeconomic effects (i.e. traditional use of lands and resources, archaeological significance) is used in CEAA.
- 3 Types of environmental assessment include:
 - Screening
 - Class screening
 - Comprehensive study
 - Mediation
 - Review panel.
- 4 Factors to be considered in screening increase under CEAA. They include the responsibility to address the following:
 - the cumulative effects of projects
 - the effects of accidents and malfunctions.
- 5 There are additional requirements for Comprehensive Study, Mediation and Review Panel, including the consideration of:
 - the purpose of the project
 - alternative means of carrying out the project and the environmental effects of these
 - the need for follow-up programs
 - the capacity of renewable resources likely to be affected to meet the current and future needs of generations.
- 6 There is a requirement for public registries to be maintained and be available to the public that contain all relevant environmental assessment information.



What is an Environmental Assessment?

Environmental assessment is a systematic process of identifying potentially adverse environmental effects of a proposed project and the related impact on people, their health, livelihood and way of life.

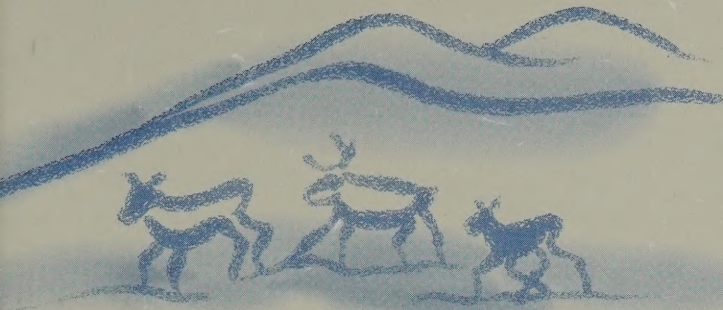
When does CEAA apply?

An environmental assessment is required if a project:

- is being undertaken by the federal government
- requires federal funding
- requires disposition of federal land
- requires federal authorizations such as land use permits, water licences, or timber permits, set out in the Law List Regulations.

The Canadian Environmental Assessment Act very clearly defines what a project is. It includes:

- a physical work that has a fixed location, is a physical thing and is or will be constructed, and related undertakings
- a physical activity, not related to a physical work, that is listed in the Inclusion List Regulations.



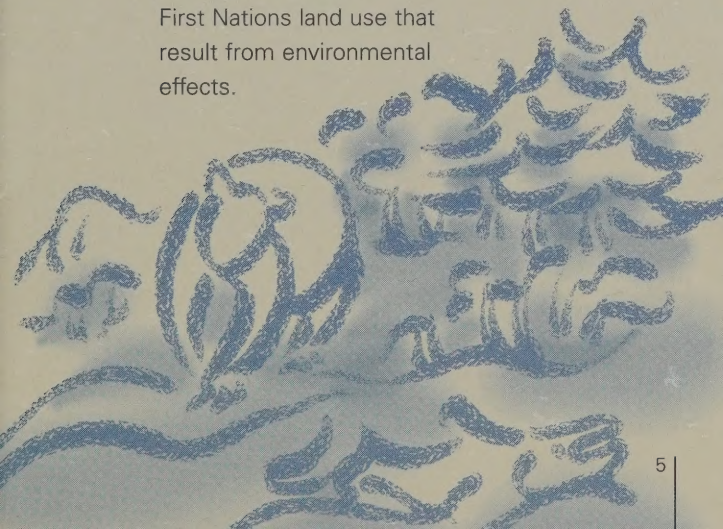
What effects does CEAA address?

Environmental assessment examines effects upon the physical, biological and related socio-economic environments.

Physical effects can include impacts upon the air, land, surface water and ground water.

Biological effects can include impacts upon terrestrial and aquatic plants and animals and habitats.

Socio-economic effects can include impacts upon human health, archaeological heritage, recreational or aesthetic values or upon First Nations land use that result from environmental effects.



What is the Procedure for Assessment of Project Proposals in the Yukon?

Projects which are known to have few environmental impacts can be screened quickly, while more complex projects are subject to more detailed assessment. DIAND has developed two-levels of assessment for projects in the Yukon.

Level I is for small-scale projects that have little potential for significant environmental effects. Environmental screening is part of the routine application process, and typically does not require environmental studies. A Level I assessment would be completed for most Land Use Permits, Leases, Reserves, Mining Land Use Authorizations, Burning and Timber Permits, or Type B Water Licences.

Level II is for more complex projects that have a greater potential for significant environmental effects and public concerns. More detailed assessment takes place, including compilation, study and analysis of project-specific environmental data. Hardrock mines, coal mines, major hydro projects or other major construction (transmission lines, highways, pipelines) are examples of projects which may require more extensive assessment. Level II assessments may be a screening or a comprehensive study. Generally, projects which would require a Type A Water Licence would require a Level II assessment.

Proponents often begin to prepare for a Level II assessment before an application is made for resource use. The need for compiling and preparing required information can require significant lead time before the screening or comprehensive study can be completed.

There is also a third level of assessment, called Panel or Mediation. The Canadian Environmental Assessment Agency, coordinates assessments at this third level. This level of assessment tends to be used for major project proposals with the potential to cause major environmental impacts and public concern. Past EARP Panel Reviews

in the north include such projects as the Alaska Highway Pipeline proposal, Beaufort Sea Oil and Gas Development, the Norman Wells Pipeline, the Shakwak Highway Project, and BHP Diamond Mine.

How is Information Obtained?

The project proponent is responsible for supplying information which adequately describes the project proposal, its potential impacts, and viable mitigation of adverse environmental effects.

These information requirements are specified by DIAND during the assessment.

What is the Result of Project Assessment?

The Screening or Comprehensive Study report may make one of the following recommendations (after considering mitigation):

- the project may proceed if it is not likely to cause significant adverse environmental effects;
- the project may not proceed if there are likely to be significant adverse environmental effects that cannot be justified; or
- if it is uncertain whether the project is likely to cause significant adverse environmental effects or if the project is likely to generate significant adverse environmental effects but those effects may be justified, then the project must be referred to a mediator or panel review. A project may also be referred to a panel review or mediation where there are significant public concerns.

If the project is approved, then the project may be referred to the regulatory stage for consideration of the issuance of licenses, permits and leases. Mitigation measures would be included in the terms and conditions of licences, permits or leases. In some cases, they may have to be addressed through a separate agreement between DIAND and the proponent.

Referral of projects by the Minister of DIAND for review by Panel Review or Mediation ordinarily takes place only in cases of major projects presenting profound environmental and/or national implications.

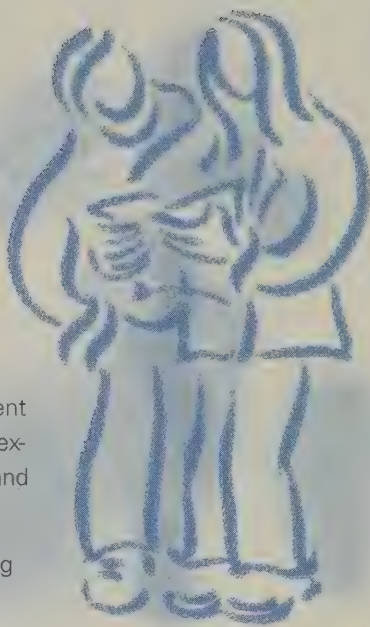
What is the Public's Role?

Levels of public input to environmental assessment increase with the complexity of project proposals and of public concern.

For Level I projects, using government referral lists and standing advisory committees, applications are referred to the Government of Yukon, other federal government departments, the Council of Yukon First Nations, First Nations directly affected by the project and specific interest groups.

Level II assessments include increased opportunities for public comment. Projects being assessed are advertised, project information is forwarded directly to interested parties for comment and, in some cases, public meetings will be held to discuss public concerns in the affected community.

Project information is kept in the Environment Directorate for Level II projects and in the relevant offices of DIAND for Level I. Level II project information is also available for public review in libraries and local District Offices of DIAND.



How will Land Claim Agreements Affect Environmental Assessment?

In the future, the current environmental assessment process (CEAA) will be replaced by a made in the Yukon process called the Development Assessment Process (DAP). DAP is based on Chapter 12 of the Yukon First Nation's Umbrella Final Agreement. This new process will apply only in the Yukon, on all Yukon lands. The new process will be used by the federal, Yukon and First Nation governments. Projects that start under CEAA will finish under that process. For more information please contact the Federal DAP Directorate at 867-667-3868, or visit the website at: www.dapyukon.yk.net.





Level I Screenings

Level I and II are environmental assessment review streams created by DIAND Yukon Region. Level I is for small-scale projects that have little potential for significant environmental effects. Level II is for more complex projects that have a greater potential for environmental effects and public concern. A more detailed assessment takes place for Level II projects.

A Level I Screening is performed by DIAND Resource Managers receiving applications for harvesting of timber, burning of debris using machinery, and the occupation and use of land. The Yukon Territory Water Board also performs a Level I Screening for Type B Water Licences.



Resource managers screen the potential environmental effects on the basis of information supplied by the proponent in the routine application process

In most cases, applications are referred to standing advisory committees made up of representatives of territorial and other federal government departments, the Council of Yukon First Nations, Yukon First Nations directly affected by the project proposals and specific interest groups. These committees include the Land Use Advisory Committee, the Mining Advisory Committee, the Federal-Territorial Lands Advisory Committee and the Forestry Land Use Advisory Committee. All applications to lease or buy land, for land use permits to temporarily use Crown land, for mineral exploitation or mining approvals or for timber permits are referred for comment to the members of these advisory committees



The reviewers may identify issues or impacts of the project and outline suggested mitigation. Identifying and assessing mitigation is a key step in completing an environmental assessment. Mitigation is the elimination, reduction or control of the adverse environmental effects of the project. Simply, mitigation is action taken to reduce environmental impact. For example, if a project could result in soil erosion, mitigation could include recontouring and seeding the area.

**For more information
on specific types of Level I**

Screening contact:

Land Resources

(867) 667-3242

Yukon Territory Water Board

(867) 667-3980

Forest Resources

(867) 667-3350

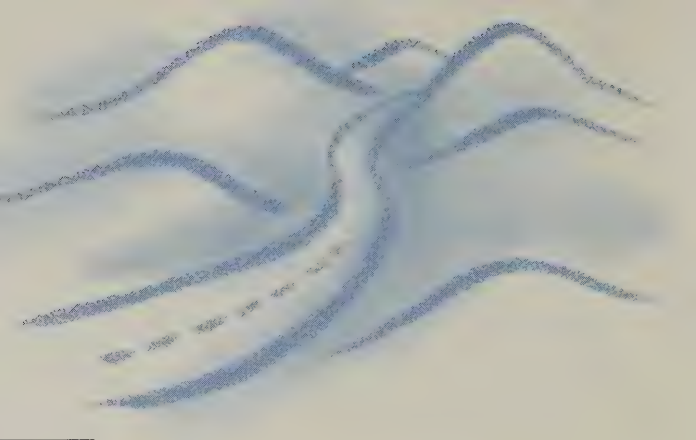
Mineral Resources

(867) 667-3265

When DIAND Resource Managers have completed their technical review and comments have been received, a screening report is prepared that includes the environmental assessment recommendations and a decision. In the vast majority of Level I cases, the environmental effects are not significant after the application of mitigation.

If the project is approved, the Responsible Authority (RA) can then issue the licenses, permits and/or leases that were applied for. Mitigation measures would be included in the terms and conditions of licences, permits or leases. The conditions are based upon the expert or technical knowledge of resource managers and comments received from advisory groups or the general public.

In some cases however, significant environmental effects or expressions of public concern are identified during the assessment. When these concerns cannot be mitigated through the conditions of a permit, lease or licence or where further information is needed or additional public consultation is considered desirable, a decision is made whether to refer the project proposal to Level II for more detailed study.



Level II

Screening and Comprehensive Study

Level II assessments (Screenings and Comprehensive Studies) are carried out on project proposals with the potential to create significant adverse environmental effects and which require a more detailed assessment than can be achieved under Level I Screening. Comparatively minor project proposals which prompt significant public concerns or have impacts upon sensitive environmental components may be referred to Level II.

Examples of Level II projects may include:

- hardrock mines requiring Type A Water Licences and a Quartz Mining Licence
- coal mines
- major hydro electric projects
- other major construction (i.e. transmission lines, highways, pipelines, etc.)
- all Comprehensive Studies identified by the CEAA Comprehensive Study List Regulations.

Level II includes two types of environmental assessment described by CEAA: screenings and comprehensive studies. The Comprehensive Study List is a regulation under the Canadian Environmental Assessment Act. The list identifies major projects that will automatically require a broader and more comprehensive environmental assessment because the projects are known to have the potential for significant adverse environmental effects or public concern.

The scope of the assessment of a project requiring a Comprehensive Study is broadened to include additional factors (i.e. consideration of alternative means of carrying out the project and the potential need for follow-up programs). DIAND submits a Comprehensive Study Report to the Minister of Environment and the Canadian Environmental Assessment Agency for review and additional public consultation. A determination is made by the Minister of Environment as to whether the project should be referred back to the Responsible Authority for action or be referred to a mediator or a review panel. This is different from a standard Level II Screening, for which DIAND carries out public consultation and makes the final decision about whether a project proceeds or not.

The Environment Directorate of DIAND coordinates Level II assessments with the assistance of the Regional Environmental Review Committee (RERC).

Projects are managed by Project Managers from the Environment Directorate who work with the proponent and the RERC to complete the Level II assessment. RERC is chaired by the DIAND Director of Environment and is comprised of representatives of federal, territorial and municipal government departments, the Council of Yukon First Nations and Yukon First Nations directly affected by project proposals.

While RERC participates in the environmental assessment and provides technical advice to DIAND, it is an advisory committee and does not issue regulatory decisions.

RERC reviews the adequacy and content of project information and makes recommendations to DIAND on potential environmental and socio-economic effects and necessary mitigation measures to reduce any adverse effects.

Level II assessments must be completed before decisions are made by regulatory authorities on the granting of any leases, permits, or licences that would be required for a Level II Project.



Steps in Conducting a Level II Screening and Comprehensive Study

Initially, it may not be possible to completely describe project components which have not yet been designed or evaluated. All physical, biological and socio-economic elements of the proposal may not be known. However, by providing conceptual or draft information in as much detail as possible, DIAND can provide direction to the project proponent on issues to be considered and on data collection requirements. Following initial consultations with DIAND, the proponent will prepare a Project Description.

PROJECT DESCRIPTION

A complete and well-documented Project Description enables RERC to begin its environmental assessment of a project.

Basic components of a Project Description include a,

- 1 brief summary of the key aspects of the development project, timetable for development, project life, facilities and associated activities
- 2 description of the project setting, including its location, site access, infrastructure development and land uses in the area
- 3 description of general objectives, site development plans, construction schedules and temporary facilities, operation, maintenance, and conceptual abandonment and restoration plans
- 4 description of potential environmental concerns related to the project, including an explanation of any on-going or proposed baseline studies or reclamation, restoration and abandonment planning being carried out to address environmental concerns
- 5 description of socio-economic issues in relation to any potential environmental effects arising from the project
- 6 description of the proposed consultation and data gathering methods
- 7 description of any cumulative effects

A list of parties affected by the activity should be compiled. A description of the baseline data collected to date as well as plans for ongoing collection of baseline data should be supplied (e.g. wildlife and floral species, landforms, habitat values). The statement of environmental components assists RERC in identifying the major issues and requirements for additional data collection and should serve to focus subsequent screening and review activities.

Proponents are encouraged to consult with affected communities, First Nations and the Government of Yukon early in the planning phase of their project.



REVIEW OF PROJECT DESCRIPTION

Following the acceptance of a Project Description, DIAND refers the supplied information to RERC and may request public comment. RERC members will evaluate the Project Description to assess the adequacy of information as it relates to their areas of responsibility or expertise. The proponent may be invited to meet with RERC and DIAND staff to discuss the project.

RERC's evaluation of the Project Description may result in a request for the preparation of more detailed information in the form of an Environmental Assessment Report (EAR), previously known as the Initial Environmental Evaluation. In response to the project description, guidelines are prepared by DIAND, itemizing the specific information required to complete an environmental assessment of the project. The proponent is responsible for supplying information requested in the EAR Guidelines.

ENVIRONMENTAL ASSESSMENT REPORT (EAR)

An Environmental Assessment Report (EAR) is a documented evaluation of the project proposal prepared by the proponent, based on DIAND's EAR Guidelines. The EAR provides detailed information regarding the proposal's environmental and related socio-economic impacts.

Types of information requested in the EAR Guidelines may include:

- **Project Details**, outlining major project elements such as site plan, construction work plans and schedules, general operating procedures and guidelines, project time lines, abandonment plans and procedures, monitoring activities, design criteria, an outline of solution management plans and an outline of Construction Quality Assurance/Control (CQA/CQC) documents. For Comprehensive Studies, any technically and economically feasible alternative means of carrying out the project needs to be considered.
- A description of **Environmental Components**, including an evaluation of the physical, chemical and biological features of the local environment. An explanation of planned and completed data gathering activity is needed so that RERC can evaluate and assess the impact and the proposed mitigation measures.
- A description of potentially significant adverse **Environmental Effects**, outlining how the different project activities may affect each of the identified environmental components. This section should investigate the linkages between the project, the environment and the resources upon which the project will have an impact. Proposed or on-going baseline studies should be described. Malfunctions and accidents related to the project will need to be considered along with potential impacts.
- **Cumulative Effects** are the effects on the environment which result from effects of a project when combined with those of other past, existing and imminent projects and activities. Cumulative Effects

assessment is a requirement of CEAA and needs to be addressed.

- Adverse **Socio-Economic, Cultural and Health Effects** resulting directly from the environmental effects of the proposal should be identified and assessed. Information should consider potential effects upon current aboriginal land and resource use (including hunting, fishing and trapping), the local communities, land use, recreational use, tourism values and employment and business opportunities. Potential impacts on structures/sites with historical, archaeological, paleontological or architectural significance must also be evaluated.
- A description of **Mitigation Measures** and identification of **Residual Impacts** is an essential objective of the environmental assessment. Thorough description of mitigation measures enables the proponent to accurately evaluate their effectiveness and costs and to incorporate these measures in the project design. Proponents should discuss each of the residual impacts after all proposed mitigative steps have been taken and propose the significance of the residual impact. Monitoring programs should be considered to detect changes from baseline conditions and to identify additional mitigation requirements.
- A description of **Public Consultation**, describing the steps that have been and will be taken to provide information to those potentially affected by, or interested in, the proposal. Proponents should list all public concerns and identify how the issues can best be addressed.

Upon acceptance of the EAR, RERC members will evaluate the adequacy of information and the proposed mitigation measures. RERC members and representatives will work closely with the proponent and may request that additional mitigation measures or supplementary information be provided by the proponent. Based upon the information provided, RERC members will make recommendations to DIAND for inclusion in a Screening Report.



SCREENING AND COMPREHENSIVE STUDY REPORT

The Screening or Comprehensive Study Report is prepared by the DIAND Project Manager, based upon input from RERC and the public. Recommendations are provided in the Report for the review of DIAND senior management.

The Screening or Comprehensive Study may make one of the following recommendations (after considering mitigation):

- the project may proceed if it is not likely to cause significant adverse environmental effects;
- the project may not proceed if there are likely to be significant adverse environmental effects that cannot be justified; or
- if the project is likely to generate significant adverse environmental effects but those effects may be justified, then the project must be referred to a mediator or panel review. A project may also be referred to a panel review or mediation where there are significant public concerns.

Both the Screening Report and Comprehensive Study Report are provided to the public for comment before a final decision about the project can be made. In the case of the Comprehensive Study Report, it is submitted to the Canadian Environmental Assessment Agency (the Agency) and the Minister of Environment for review.



DECISION

The Decision will determine the status of the project according to CEAA. As mentioned, although DIAND will make recommendations, a final decision is not made until comments are received from the public. In the case of a Comprehensive Study, the Minister of Environment will determine whether the suggested decision is appropriate, again considering public comment.

If the project is approved, then the project may proceed to the regulatory stage for the issuance of licenses, permits and leases. Mitigation measures would be included in the terms and conditions of licences, permits or leases. In some cases, they may have to be addressed through a separate agreement between DIAND and the proponent.

Referral of projects by the Minister of DIAND for review by Panel Review or Mediation ordinarily takes place only in cases of major projects presenting profound environmental and/or national implications.

PUBLIC PARTICIPATION

Proponents are primarily responsible for contacting the public about the project. The purpose of this contact is to identify the environmental concerns that people may have about the proposed project and people's use of the area in which the project is planned. Proponents are encouraged to provide information to individuals and groups who may be affected by project activity.

Proponents are required to document their public information and consultation activities and to show how public concerns have been addressed.

The Level II process presents the public with a variety of opportunities for review and comment on major project proposals.

Project submissions and EARs are distributed to municipalities, First Nations, interest groups and those requesting information regarding project development.

Screening and Comprehensive Study Reports are placed in public libraries and DIAND District Offices for review. Their availability is advertised, providing an opportunity for public comments.

In some cases, public meetings may be held to solicit further input and to gauge public concern.

Project information is available for viewing in project files administered by DIAND's Environment Directorate. Except for confidential (e.g. financial) information, all project information is available for public review.

RERC meetings are occasionally held in the communities where the proposed project is planned to be developed. This is done to better accommodate local participation in RERC meetings.



TIMING

Environmental assessment of a Level II project can take from six months to two years. The timing of the screening depends on the complexity of the proposal and the time it takes for the proponent and the government to compile information and provide it to each other.

If the project requires a Comprehensive Study for the Canadian Environmental Assessment Agency, the environmental assessment may take longer. The Agency needs to review the Comprehensive Study Report and gather further input from the public, if required.




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